

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

Goodrich  
Pl.  
30421

FILE: B-218104 DATE: February 12, 1985

MATTER OF: Consolidated Marketing Network, Inc.

## DIGEST:

GAO will not review the Small Business Administration's (SBA) refusal to issue a certificate of competency, absent a showing of possible fraud or bad faith on the part of government officials or allegations that SBA did not follow its own regulations or did not consider material information, since the Small Business Act gives SBA conclusive authority to determine all elements of small business responsibility.

Consolidated Marketing Network, Inc. (CMN), protests the rejection by the Department of the Navy, Lemoore Naval Air Station, of its bid under invitation for bids No. N62474-83-B-5941 and requests termination of the current contract and award to CMN. We dismiss the protest.

The contracting officer found CMN nonresponsible and referred the matter to the Small Business Administration (SBA) for possible issuance of a certificate of competency (COC). The SBA reviewed the matter, but declined to issue a COC. CMN contends that the agency and SBA determinations were improper.

The SBA has conclusive authority to review a contracting officer's negative determination of responsibility and to determine a small business' responsibility by issuing or refusing to issue a COC. 15 U.S.C. § 637(b)(7) (1982). Consequently, we will not undertake an independent review of a contracting officer's nonresponsibility determination where the SBA affirms the determination by refusing to issue a COC. Speco Corp., B-211353, Apr. 26, 1983, 83-1 CPD ¶ 458.

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Moreover, in light of SBA's statutory authority, this Office will not review the SBA decision unless there is a showing that it stemmed from fraud or bad faith or unless it is alleged that the SBA did not follow its own regulations or did not consider material information. GAO Bid Protest Regulations § 21.3(f)(3), 49 Fed. Reg. 49417, 49421 (1984) (to be codified at 4 C.F.R. Part 21); Tomko, Inc., B-210023.2 et al., Feb. 15, 1984, 84-1 CPD ¶ 202. CMN does not allege that fraud or bad faith caused the SBA's refusal to issue a COC or that the SBA failed to follow its own regulations or to consider material information. Therefore, we will not consider its protest.

The protest is dismissed.



Comptroller General  
of the United States